



Evaluating legislative and administrative reforms in workers' compensation

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Agenda

- ▶ What is workers' compensation reform?
- ▶ Legislation
- ▶ Judicial decisions
- ▶ Administration
- ▶ Other
- ▶ Actuarial role
- ▶ Objectively vs. subjectively quantifiable examples

What is workers' compensation reform?

- ▶ Changes in the operating structure of a workers' compensation system that impacts the costs associated with the delivery of benefits

- ▶ Sources included:
 - ▶ Legislation
 - ▶ Judicial decisions
 - ▶ Administration
 - ▶ Other

- ▶ Sources excluded:
 - ▶ Economic conditions
 - ▶ Behavior
 - ▶ Worker
 - ▶ Employer
 - ▶ Vendor (physicians, attorneys, claims managers)

Legislation

- ▶ The Workers' Compensation Act in the jurisdiction is modified

Impacting

- ▶ Indemnity
 - ▶ Benefit as a percent of wage
 - ▶ Minimum and maximum benefits
 - ▶ Cost of living adjustments
 - ▶ Duration of benefit
- ▶ Medical
 - ▶ Usual and customary vs. reasonable and necessary care
 - ▶ Fee schedules
 - ▶ Utilization review

Legislation

- ▶ Indemnity and medical
 - ▶ Rules of Evidence
 - ▶ Presumption of work relationship
 - ▶ Exclusions

Judicial decisions

- ▶ The judiciary interprets the Workers' Compensation Act, modifying how the legislation is applied.

Catalysts

- ▶ Legislative challenge
- ▶ Case law

Administration

- ▶ Actions of the industrial accident board and commissions

Types

- ▶ Administrative rule
 - ▶ Rules of Evidence
- ▶ Administrative structure
 - ▶ Judicial case loads

Other

- ▶ Variations from Workers' Compensation Act, related to:
 - ▶ Collective bargaining
 - ▶ Employer/insurer benevolence

Considerations

- ▶ 14th Amendment of the United States
 - ▶ Workers' compensation benefits, once awarded, are a property right.

Actuarial role

- ▶ Evaluate the financial impact of changes in workers' compensation systems
- ▶ Who can we support?
 - ▶ Legislatures
 - ▶ Insurers
 - ▶ Employer groups
 - ▶ Vendors

Objectively quantifiable – indemnity

Examples

- ▶ Indemnity
 - ▶ Readily quantifiable
 - ▶ Nominal benefit (% of pre-injury wage)
 - ▶ Min and max benefit
 - ▶ Decrease in duration
 - ▶ Quantifiable with external data
 - ▶ Cost of living adjustment
 - ▶ Increase in duration
 - ▶ Introduction of impairment ratings

Objectively quantifiable – medical

Examples

- ▶ Medical
 - ▶ Readily quantifiable
 - ▶ Fee schedule
 - ▶ Introduction
 - ▶ Modification
 - ▶ Quantifiable with external data
 - ▶ Utilization review

Benefit as a percent of wage – example

Situation

	Nominal rate (% Salary)	Min (SAWW)	Max (SAWW)
Pre-reform	70%	33 1/3%	66 2/3%
Post-reform	66 2/3%	33 1/3%	100%

Tools

Standard wage distribution table

R	A	B
0.50	14.80	5.45
0.95	56.40	35.78
1.00	59.44	38.82
1.50	84.26	69.99

Key

R = ratio to average wage

A = % of workers receiving not more than the % of the average wage indicated by R

B = % of wages received by the % of workers in A

Benefit as a percent of wage – example

Workers at max

	(1)	(2)	(3)	(4) = 1 – (3)	(5)
	Max	Min to get max	A for (2)	Workers at max	(4) * max / 100%
Pre-reform	66.67	$66.67 / 0.7 = 95.2$	56.4	43.6	29.07
Post-reform	100.0	$100 / 0.6667 = 150.0$	84.26	15.74	15.74

Workers at nominal rate

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Max	Min	Max wage	Min wage	B for max	B for min	Difference	(7) * nom / 100%
Pre-reform	66.67	33.33	95.24	47.61	35.78	5.45	30.33	21.23
Post-reform	100	33.33	150	50	69.99	5.45	64.54	43.03

* To simplify calculations, to select A and B, rounded to nearest 5% for this example

Benefit as a percent of wage – example

Workers at min

	(1)	(2)	(3)	(4)
	Min	A	Benefit	$(2) * (3) / 100$
Pre-reform	47.61	14.8	33.33	4.93
Post-reform	50	14.8	33.33	4.93

Total indemnity impact

	(1)	(2)	(3)	(4)	(5)
	Max	Nominal	Min	Total	Indemnity impact
Pre-reform	29.07	21.23	4.93	55.23	
Post-reform	15.74	43.03	4.93	63.7	.15

Cost of living adjustment

- ▶ Types of change
 - ▶ Index
 - ▶ Duration
 - ▶ Combination (i.e., index to the min and max)

Decrease in duration of benefits – example

Situation

- ▶ Decreased duration from 500 weeks to 400 weeks

Steps

- ▶ Review distribution of claims by duration
- ▶ Cap at 400 weeks
- ▶ Test impact

Increase in duration of benefits – example

Situation

- ▶ Increased duration from 400 weeks to 500 weeks

Steps

- ▶ Identify jurisdiction with similar classification (severity) distribution and duration of at least 500 weeks
- ▶ Compare duration distributions up to 400 weeks
- ▶ Determine impact of increase from 400 to 500 weeks
 - ▶ What are the issues?

Introduction of impairment ratings – example

Situation

- ▶ Impairment ratings based on AMA Guidelines will be used to establish permanent partial percentages and eligibility for permanent total disability.

Steps

- ▶ Identify jurisdiction with similar classification (severity) distribution that has available impairment rating data

Resource

- ▶ Texas Department of Insurance
 - ▶ Any claim alleging impairment requires an impairment rating.

What are the considerations?

Medical fee schedule introduction – example

- ▶ Considerations
 - ▶ Instantaneous impact
 - ▶ Inflationary impact

Steps – instantaneous impact

- ▶ Identify distribution of medical treatments by code (CPT)
 - ▶ What are your resources?
- ▶ Compare the actual costs before fee schedule with fee schedule costs

Steps – inflationary impact

- ▶ Restate historical loss development to reflect medical fee schedule inflation index

Medical utilization review

- ▶ Considerations

- ▶ What's the form of the law?

- ▶ Move from usual and customary care to reasonable and necessary care
 - ▶ Adoption of treatment guidelines

Steps

- ▶ Identify another jurisdiction which went through a similar change
- ▶ Monitor educational offerings to physicians on circumvention of utilization review and fee schedules

Subjectively quantifiable

Examples

- ▶ Rules of Evidence
- ▶ Presumption of work relationship
- ▶ PPACA
- ▶ Exclusions

How do you turn these into objectively quantifiable reforms?